

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:09-cv-00307-MR**

UNITED COMMUNITY BANK,)
)
Petitioner,)
)
vs.)
)
JORGE ANGARITA, ARMANDO G.)
ARMAS, JOSE G. BELTRAN, ALINA)
BOYD, PRECIOUS BROOKS,)
MARTHA G. ESPARRAGOZA,)
NESTOR ESPARRAGOZA,)
FOLAYELE F. FAPOHUNDA,)
THOMAS L. FLYNN, HYVRON L.)
JEAN, LAWRENCE B. OGEDEGBE,)
WILSON O. OLUREMI, ADEYOLA)
OWOLADE, MICHAEL PENA, SALLY)
PENA, ADEKUNLE G. ROGERS,)
RAFEL A. UBEDA, GLEN B.)
WARRINGTON and RENEE E.)
WARRINGTON,)
)
Respondents.)
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**ORDER FOR APPEARANCE OF THIRD PARTY PURSUANT TO
N.C. Gen. Stat. § 1-360**

THIS MATTER is before the Court on the on the verified motion (the “Motion”) of United Community Bank (“UCB”) for an order pursuant to N.C. Gen. Stat. §1-360 compelling Joseph W. Grier, in his capacity as receiver (the “Receiver”), to appear and give testimony concerning the funds he has

in his possession that may belong to judgment debtor Michael Pena (“Judgment Debtor”) [Doc. 52].

On October 18, 2010, the Court entered an Amended Default Judgment against the Judgment Debtor and in favor of UCB in the amount of \$121,510.38 (the “Judgment”). On February 13, 2015, the Court issued a writ of execution. On June 6, 2007, the Receiver was appointed as receiver for various entities on motion of the State of North Carolina in a case in Wake County Superior Court, captioned State of North Carolina ex rel. Roy Cooper v. Peerless Real Estate Services, Inc. et al.; Wake County (07-CVS-9006) (the “Peerless Lawsuit”). UCB has information that the Receiver is in possession of funds that may belong to the Judgment Debtor.

For the reasons stated in UCB’s Motion, and for good cause shown,

IT IS, THEREFORE, ORDERED that the Petitioner’s Verified Motion Pursuant to N.C. Gen. Stat. § 1-360 *et seq.* [Doc. 52] is **GRANTED**, and the Receiver Joseph W. Grier shall appear before the Court at **9:00 a.m. on May 5, 2015**, and testify concerning any funds he may have in his possession that belong to the Judgment Debtor Michael Pena. In lieu of appearing at the hearing, the Receiver may file a verified statement setting forth the specific amount of funds in his possession that are owed or belong to the Judgment

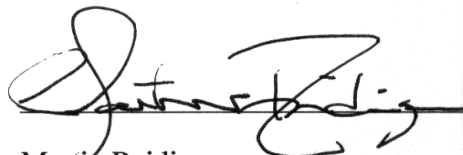
Debtor Michael Pena. The verified statement must be filed with the Court and served upon counsel for UCB before the hearing date.

IT IS FURTHER ORDERED that the Receiver shall freeze the funds in his possession that belong to the Judgment Debtor Michael Pena and not otherwise distribute them.s

IT IS FURTHER ORDERED that the Clerk of Court shall provide a copy of this Order to the Receiver Joseph W. Grier at the following address: 101 North Tryon Street, Suite 1240, Charlotte, North Carolina 28246.

IT IS SO ORDERED.

Signed: April 17, 2015


Martin Reidinger
United States District Judge

